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July 31, 2014

Via FOIA Online

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
Facsimile: (202) 566-2147

Re: Freedom of Information Act Request for Records Concerning the Categorization of Diurnal Variation in Dissolved Oxygen as an Impairment of Water Quality

To Whom This May Concern:

This is a request for a public records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. Section 552, as implemented by the Environmental Protection Agency ("EPA") at 40 C.F.R. Part 2. For purposes of this request, the definition of "records" includes, but is not limited to, documents, letters, memoranda, notes, reports, e-mail messages, policy statements, data, technical evaluations or analysis, and studies.

Background

The EPA, pursuant to Section 304(a) Clean Water Act, 33 U.S.C. § 1314(a) ("CWA" or the "Act"), has determined that, in order to be protective of public and ecological health, Dissolved Oxygen ("DO") concentration levels must be above a certain instantaneous minimum, 7-day mean and 7-day mean minimum, as set forth in Tables 1-3 of "Quality Criteria for Water 1986," EPA 440/5-86-001 (the "Gold Book"). The actual DO level suggested varies depending on whether the water body in question is a cold water or warm water habitat, whether the concentration is measured in the water column or intergravel, and, in salmonid waters, the life stage meant to be protected. *Id.* However, recently, EPA has indicated in several forums that a nutrient or aquatic life use impairment may be identified based solely on the degree of the DO variation occurring, even where the aforementioned minimum DO concentrations are being met.

Request

This request seeks any records which are the basis for EPA's assertion that diurnal DO variation, by itself, causes aquatic life impairment, including any public notices that EPA has reached this conclusion under Section 304(a) of the Act. In particular, this FOIA response should identify the scientific studies that form the basis for EPA's position and explain the degree of diurnal DO variation that may be expected to cause use impairment, even when DO levels do not fall below the minimum concentrations specified in the Gold Book.

Please contact the undersigned if the associated search and duplication costs are anticipated to exceed \$250.00. Please duplicate the records that are responsive to this request and send it to the undersigned at the above address. If the requested record is withheld based upon any asserted privilege, please identify the basis for the non-disclosure.

If you have any questions regarding this request, please do not hesitate to contact this office so as to ensure that only the necessary document is duplicated.

Respectfully,



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